

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

AMMAR HARRIS,

Plaintiff

Case No. 3:21-cv-00380-RCJ-CLB

ORDER

v.

ELY STATE PRISON STAFF,

Defendant

I. DISCUSSION

On August 23, 2021, Plaintiff, who is in the custody of the Nevada Department of Corrections (“NDOC”), submitted a “letter” to this Court alleging he was assaulted by prison staff on August 28, 2020. (ECF No. 1-1). Because Plaintiff did not submit a complaint and neither paid the filing fee nor submitted an application to proceed *in forma pauperis*, the Court issued an order directing him to do so by October 25, 2021. (ECF No. 3).

On September 16, 2021, Plaintiff filed a motion for change of jurisdiction from 42 U.S.C. § 1983 to 28 U.S.C. § 2254. (ECF No. 4). Plaintiff did not submit a petition for writ of habeas corpus under 28 U.S.C. § 2254. On September 29, 2021, Plaintiff paid \$10.00 toward his filing fee. (ECF No. 5). On October 21, 2021, Plaintiff submitted a motion to extend time to submit his application to proceed *in forma pauperis*. (ECF No. 7).

The Court denies Plaintiff’s motion to change his jurisdiction from § 1983 to § 2254 (ECF No. 4) without prejudice. The Court directs Plaintiff to file either a 42 U.S.C. § 1983 complaint or a petition for writ of habeas corpus under 28 U.S.C. § 2254 by Friday, November 19, 2021. Depending on what document Plaintiff submits as his initiating document in this case, the Court will adjust its docket accordingly.

The Court grants Plaintiff’s motion to extend time to submit his application to

1 proceed *in forma pauperis* (ECF No. 7) including the 3-page application, the financial
2 certificate, and the inmate account statement by Friday, November 19, 2021. If Plaintiff
3 fails to timely submit a § 1983 complaint or a petition for writ of habeas corpus and file a
4 completed application to proceed *in forma pauperis*, the Court will recommend dismissal
5 of this case without prejudice.

6 **II. CONCLUSION**

7 It is therefore ordered that the motion for change of jurisdiction (ECF No. 4) is
8 denied without prejudice.

9 It is further ordered that by November 19, 2021, Plaintiff will either submit a 42
10 U.S.C. § 1983 complaint or a petition for writ of habeas corpus under 28 U.S.C. § 2254
11 to the Court.

12 It is further ordered that the Clerk of the Court will send to Plaintiff the approved
13 form and instructions for filing a § 1983 complaint and the approved form and instructions
14 for filing a petition for writ of habeas corpus under § 2254.

15 It is further ordered that by November 19, 2021, Plaintiff will file a fully completed
16 application to proceed *in forma pauperis*.

17 It is further ordered that if Plaintiff fails to timely submit these documents, the Court
18 will recommend dismissing this action without prejudice.

19
20 DATED THIS 22nd day of October 2021.

21
22 
23 UNITED STATES MAGISTRATE JUDGE
24
25
26
27
28